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September 28, 2016

VIA ECFS

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: *Special Access Rates for Price Cap Local Exchange Carriers, WC Docket No. 05-25; Business Data Services in an Internet Protocol Environment, WC Docket No. 16-143; Investigation of Certain Price Cap Local Exchange Carrier Business Data Services Tariff Pricing Plans, WC Docket No. 15-247*

Dear Ms. Dortch,

On September 26, 2016, David Don and Mary McManus of Comcast Corporation (“Comcast”), along with the undersigned and Matthew Murchison of Latham & Watkins LLP, met with Stephanie Weiner from the Office of Chairman Wheeler; Howard Symons and William Dever from the Office of General Counsel; and Matthew DelNero, Deena Shetler, Eric Ralph, David Zesiger, William Kehoe, Christopher Koves, and Justin Faulb from the Wireline Competition Bureau in connection with the above-referenced proceedings.

We discussed the letter filed on September 14 by a group of seven economists—including two former Chief Economists for the Commission—explaining that prescriptive rate regulation is appropriate only in the presence of secure monopoly conditions, and that “economic theory and past experience” show that expanding rate regulation more broadly “imposes significant costs,” “obstructs innovation,” and “acts as a disincentive to investment.”¹ In addition, we noted that an appropriate way to effectuate these well-established principles in the business data services (“BDS”) arena would be to adopt the framework proposed by NCTA in a

¹ Letter by Dr. Joseph V. Farrell *et al.*, to Marlene H. Dortch, FCC, WC Docket Nos. 05-25, 15-247, and 16-143, at 1 (filed Sep. 14, 2016).

letter also filed on September 14—a framework that would impose rate regulation only where monopoly conditions are present and where future entry and investment are unlikely.² Moreover, we explained that, if the Commission also determines that a regulatory backstop is necessary to ensure the availability of wholesale BDS from private carriers, it could establish a regime along the lines described in Comcast’s letter of September 9, which would entail a baseline duty to deal on a commercially reasonable basis (similar to the Commission’s data roaming rules in the wireless context).³

Please contact the undersigned if you have any questions regarding this submission.

Sincerely,

/s/ Matthew A. Brill

Matthew A. Brill
of LATHAM & WATKINS LLP
Counsel for Comcast

cc: Matthew DelNero
William Dever
Justin Faulb
William Kehoe
Christopher Koves
Eric Ralph
Deena Shetler
Howard Symons
Stephanie Weiner
David Zesiger

² See Letter of Steven F. Morris, NCTA, to Marlene H. Dortch, FCC, WC Docket Nos. 05-25 and 16-143, at 1 (filed Sep. 14, 2016).

³ See Letter of Kathryn A. Zachem, Comcast, to Marlene H. Dortch, FCC, WC Docket Nos. 05-25, 15-247, and 16-143, at 3-6 (filed Sep. 9, 2016).